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Montana Equal Employment Opportunity and Affirmative Action Program

Report to the Governor

for the period

July 1, 1985 to June 30, 1986

Equal Employment Opportunity Section
Employee Relations Bureau
State Personnel Division
Department of Administration

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INTRODUCTION

State and federal law requires that all persons be given equal opportunity for employment regardless of their sex, race, national origin, religion and age. Affirmative action is a program to provide statutorily required equal opportunity by eliminating unessential and discriminatory barriers to qualified females, minorities, and disabled applicants and employees.

There has been some confusion in the minds of hiring officials over the appropriate amount of attention and resources to devote to affirmative action, and even in some cases over the legality of affirmative action itself. The U. S. Supreme Court on June 2, 1986, in two separate rulings, reaffirmed the legality of affirmative action in the American work place as a remedy for past discrimination against protected classes.

The State government of Montana is committed to affirmative action. Executive Order 24-81 specifically states that it is the goal of the state of Montana to eliminate discriminating barriers to employment throughout state government and to implement an effective equal employment opportunity program.

This report analyzes the progress of the state Equal Employment Opportunity and Affirmative Action program during the 1985-86 fiscal year.

The report is divided into six chapters. Chapter I is the Executive Summary. The second chapter outlines the position of the Supreme Court with regard to Equal Employment Opportunity. Chapter III describes the programs of the Equal Employment Opportunity Section. The fourth chapter discusses activities of state agencies in implementing the affirmative action program. Chapter V discusses in detail the employment of women, minorities and the disabled in 1986 and compares the employment of these groups to one year ago. Chapter VI gives recommendations to improve the State's posture for each affected group.

CHAPTER I
EXECUTIVE SUMMARY

The analysis of employment in state executive branch agencies shows a lack of gains overall in the employment of women, minorities, and the disabled during the 1985-86 fiscal year with the fiscal environment being one contributing factor. There are some important exceptions to the overall picture. Specifically, this report shows that:

- Much of the effort of agencies' EEO Officers was directed at preserving recent affirmative action gains while agencies' management dealt with shortfalls in revenue, broad cuts in personal services and operating budgets.
- For the first time all agency job titles were matched to the Montana U.S. Census data job titles. This comparison enabled agencies to estimate the labor market percentage of minorities and females with the qualifications for entry into specific job groups.
- Using the state's personnel payroll system, agencies, for the first time, were provided with an applicant flow analysis that had sufficient data to identify possible causes of underutilization. State agencies can now analyze adverse impact* in their recruitment and selection practices.
- The representation of minorities dropped from 3.2% in 1984-85 to 3.0% in 1985-86 with most reduction in the clerical job category.
- Slight gain for minorities occurred in administrative, professional, technical, and protective services categories.
- The representation of the disabled dropped from 3.1% in 1984-85 to 2.8% in 1985-86. This is a reduction of 27 disabled employees.

Adverse impact - See Appendix A for a definition.

- The representation of women in professional positions rose slightly from 36.1% in 1984-85 to 37% in 1985-86.
- The representation of women in Protective Services rose from 6.8% in 1984-85 to 7.5% in 1985-86.
- There were no gains in administrative or skilled craft categories for women. FY86 is the second consecutive year with no employment gains for women in these two predominately male job categories.
- State agencies must continue to use position/applicant/workforce data to evaluate past and present recruitment and selection practices to identify the cause or causes of underutilization. Agencies must also continue to eliminate employment barriers causing an adverse impact on minorities, females, and the disabled.

CHAPTER II
RECENT SUPREME COURT RULINGS

Latest Case Laws on EEO/AA:

In the minds of many hiring officials there has been some confusion over the appropriate amount of attention and resources to devote to EEO/AA programs and goals. There have also been some conflicting signals about the legality of affirmative action. In the eyes of the courts, affirmative action is alive and well and the laws are intact. On July 2, 1986, the U.S. Supreme Court reaffirmed the legality of affirmative action in the American work place as a remedy for past discrimination against protected classes.

The court's latest word on affirmative action came in two rulings.

1. In the Sheet Metal Workers V. Equal Employment Opportunity Commission (EEOC), the U.S. Supreme Court upheld the use of affirmative action measures that benefit non-whites, even though they are not the actual victims of an employer's discriminatory practices. It validated the imposition of a 29 per cent non-white membership goal on a union local and the use of contempt proceedings to enforce that goal.

2. In the Fire fighters V. City of Cleveland case the U.S. Supreme Court affirmed the ruling of the U.S. Court of Appeals of Cincinnati, which states that a city could adopt a consent decree providing for race conscious relief in promoting fire fighters. The Supreme Court held that it was appropriate for a city fire department to enter into a consent decree providing for affirmative action in the hiring and promoting of racial minorities. In fact, the justices approved a plan that reserves about half the promotions in the city's fire department for qualified minority candidates.

Sexual Harassment:

Another area that has received attention by the courts is the enforcement of prohibitions against sexual harassment in the workplace.

The U.S. Supreme Court's latest opinion on sexual "harassment" came in Meritor Savings Bank, FSB. V. Vinson, June 19, 1986. The court found that:

- Sexual harassment constitutes "sex discrimination" within the meaning of Title VII of the Civil Rights Act of 1964.
- Sexual harassment does not just refer to situations where some concrete, tangible employment benefit is conditioned on sexual favors.
- An employer can be liable for harassment even if he or she merely tolerates a "hostile environment" in the work place.
- Lack of knowledge of a hostile working environment by the employer does not constitute per se defense.

The Supreme Court also decided that an employer is absolutely liable for sexual harassment practiced by supervisory personnel, whether or not he or she knew or should have known about the conduct. It states that:

- Unwelcome sexual advances that create an offensive or hostile working environment do violate Title VII, which is not limited to "economic" or tangible discrimination, but includes purely psychological aspects of employment as well.
- It is not a defense that a claimant's sex-related conduct was "voluntary" so long as the sexual advances were "unwelcome."
- Mere existence of a grievance procedure and a policy against discrimination, even coupled with complainant's failure to use that procedure, may not be enough to save the employer.

The court went on to recommend that:

- Every employer should adopt a specific written policy with regard to sexual harassment.
- Employers should make clear that a "hostile environment" will not be tolerated.

- The policy should be widely disseminated, posted or at least included in the employee handbook.
- Every manager should be required to sign it.
- A grievance procedure for employees who feel that harassment is taking place should be established.
- And finally, immediate, decisive action including firing should be taken if there are legitimate grounds.

(See Chapter VI for recommendations to improve the State's Sexual Harassment Prevention Program.)

These decisions clearly indicate a strong commitment by the courts to enforce the nation's equal employment laws and to uphold affirmative action as an appropriate remedy to past discrimination.

CHAPTER III

EQUAL EMPLOYMENT OPPORTUNITY SECTION ACTIVITIES

Activities of the Section:

The Equal Employment Opportunity Section in the Department of Administration placed emphasis during FY 86 on improving the basic tools used by state agencies in evaluating their employment practices and planning remedial efforts. Activities included:

1. New Montana Equal Employment Opportunity/Affirmative Action Guidelines.

   The department published new Equal Employment Opportunity/Affirmative Action (EEO/AA) guidelines. The guidelines establish minimum standards for the state's equal employment opportunity/affirmative action program in accordance with the Governor's Executive Order 24-81 and the state's EEO Policy (ARM 2.21.8106 to 2.21.8109). The revised guidelines comply with changes in equal employment opportunity case law and incorporate new and more effective affirmative action techniques.

   Highlights of the EEO/AA guidelines include:

   - Methods for analyzing the utilization of affected class members in an agency workforce.
   - Methods for identifying the availability of qualified minorities and women in the Montana labor force.
   - Methods for identifying job groups with underutilization of minorities or women.
   - Methods of identifying possible causes of underutilization.
   - Instructions for preparing an affirmative action plan. The guidelines include a complete sample affirmative action plan.
   - Guidelines for providing reasonable accommodation for disabled applicants and employees.

- Descriptions and instructions for use of the computerized reports and analyses provided by the Equal Employment Opportunity Program.

2. Review and Approval of Agency Affirmative Action Plans.

The State Personnel Division reviewed and approved affirmative action plans submitted by state agencies in accordance with the Governor's Executive Order 24-81. The affirmative action plans cover the period January 1, 1986 to December 31, 1987.

State agencies prepared sound, practical and realistic affirmative action plans by applying the revised EEO/AA Guidelines, work force analyses and applicant flow analyses. In their affirmative action plans, state agencies express their commitment to provide equitable treatment for all present and prospective employees in all personnel actions regardless of sex, race, color, national origin, religion, age, marital status and disability.

3. Computerized Analyses.

Availability Analyses - The State Personnel and Agency EEO Officers, for the first time, matched all agency job titles to the appropriate U. S. Census data job titles and identified immediate recruitment areas. This comparison enabled agencies to estimate the percentage of minorities and females in relevant recruitment areas, who have skills necessary for entry into specific job groups. Analyzing the availability in the labor force of qualified females and minorities allows agencies to target occupations and job groups where females and minorities are truly underrepresented (underutilized).

Four factors were given weight when setting the final availability of women and minorities in each occupation and job group. The factors were:

1. The percentage of minorities and women in the Montana labor force (43% women, 5% minorities).

2. The percentages of women and minorities with requisite skills in the immediate labor area (county/counties).

3. The percentage of women and minorities with requisite skills in the relevant recruitment area (statewide).

4. The percentage of women and minorities among those promotable or transferable from within an agency.

Utilization Analyses - Final availability was then compared to the agency's workforce. If utilization was less than availability, underutilization existed and specific remedial actions were identified in the agency's affirmative action plan.

Applicant Flow Analysis - Internal/External - The State Personnel Division, by using the state's personnel payroll computerized system, has been able for the first time to provide state agencies an applicant flow analyses with sufficient data to identify possible cause(s) of underutilization. The applicant flow analysis covering the period from July 1, 1985 to September 1, 1986, has been sent to all state agencies. State agencies can now analyze adverse impact in their recruitment and selection practices and take corrective action.

4. Affirmative Action Outreach Activities.

The Equal Employment Opportunity Section conducted affirmative action outreach by visiting colleges, universities and Indian nations in Montana. Staff attended college career days, the Montana Indian Education Association conference and a Women in Transition conference.

Through the outreach program, the section was able to inform women, minorities, and disabled persons about employment and career opportunities with the State.

5. EEO/AA Conference.

A Sixth Annual EEO/AA conference was held in Helena on September 24-25, 1986. The two-day conference was sponsored by the Equal Employment Opportunity Section and explored the latest developments in law, regulation, and policy.

The conference provided up-to-date and valuable information for EEO/AA specialists, personnel officers, attorneys, and general managers in both the public and private sectors.

More than 80 people attended the conference. Conference attendees included personnel/EEO officers from state, county and city government, hospitals, human resource organizations, colleges and universities, women's organizations, private corporations, and labor unions.

CHAPTER IV
AGENCY ACCOMPLISHMENTS

State agencies, using the new EEO/AA Guidelines and the more effective techniques for identifying underutilization, prepared affirmative action plans addressing specific problem areas. All agencies have analyzed their work force for areas of underutilization of minorities and women. Each agency has a current affirmative action plan with specific action items developed to improve utilization. It is not possible to list the activities of all state agencies, but following are some examples of affirmative action steps taken by state agencies during FY86.

1. The Department of Health and Environmental Sciences is an example of an agency making significant gains in eliminating underrepresentation of women in professional positions. The Department has several professional occupations which have been traditionally male. These include environmental engineers and environmental specialists. The director required that the agency EEO Officer be an active member of every selection team. This has ensured fair and equal consideration be given to all qualified women. In cases where male and female candidates had similar qualifications, the selection goal indicated in the agency's Affirmative Action Plan for hiring women was used. These efforts made all supervisors in the department very aware of the affirmative action plan and its objectives. As a result of this approach, the Department of Health and Environmental Sciences has attained parity of male and female employees in all of their professional occupations based on their availability in the labor force.

2. The Montana Department of Highways (MDOH) has taken a number of steps to meet affirmative action goals. The director requires that all MDOH employees receive two hours of EEO training every two years.

As part of the EEO Contract Compliance Program, five EEO workshops were conducted for the construction industry at different locations around the state. Topics included sexual harassment, recruitment, selection, and compliance reviews.

MDOH is in the process of converting to the central state applicant flow system to improve monitoring of recruitment and selection decisions.

MDOH conducts management reviews to ensure each district is fulfilling the goals and objectives mandated by various state and federal regulations. The EEO portion of the management review involves:

a. A cross section of District employees are interviewed (includes personnel from all levels). Employees are individually asked 15 to 20 EEO related questions.
b. Recruitment and selection procedures are closely reviewed.
c. Area referral sources such as Women in Transition, Tribal Employment Indian Alliance are visited and interviewed.
d. When the review is completed the data collected is analyzed, weaknesses are noted, and corrective action is implemented.

3. The Department of Fish, Wildlife and Parks (FWP) has developed an extensive distribution list for job vacancy announcements in order to attract qualified women and minority applicants. The list includes:

Native American organizations, campus publications, college placement offices, and other state agencies. The department has also extended the recruitment period to allow for job vacancies to appear in campus publications.

The Enforcement Division has worked closely with the Department of Justice, Peace Officers Standards and Training Council (POST) to revise peace officer tests. Special emphasis has been placed on

reviewing physical strength and agility tests and their effect on female candidates.

The Enforcement Division included a woman, with a background in law enforcement testing, on the interview team when five Enforcement Division positions were filled in the spring of 1986. They plan to include her on other interview panels in the future.

4. The Department of Justice, Montana Highway Patrol (MHP) has taken steps to encourage women and minorities to apply for Highway Patrol jobs. The Montana Highway Patrol Division has:
   - distributed posters throughout the state.
   - advertised open cadet positions through placement offices of all twelve Montana colleges and junior colleges including all seven of the Indian Tribe Community colleges.
   - provided job announcement information through personal visits to each of the seven Indian Nations in the state.
   - provided job announcements and other recruiting information to Mexican Americans and other minority groups.
   - conducted a two day recruitment effort at the Billings West Park Plaza Shopping Mall.

In addition to recruitment efforts, the Department of Justice has made significant progress in reducing the potential for adverse impact from their selection procedures.

The Peace Officers Standards and Training Council (POST) is in the process of implementing a content validated physical skills testing program for all law enforcement officers in Montana. Standards used in the past sometimes contained selection criteria which had questionable relationships to the job. The new written and physical skills tests are a result of task surveys and job analyses which have been performed over the last several years. They are proving to be a great asset in selecting the most qualified applicants for careers in law enforcement. The physical skills test was developed through the cooperation of staff from the

University of Montana, Department of Justice, and all law enforcement agencies in Montana.

MHP included a female officer and a person with a background in EEO and selection on the interview team when the cadet positions were filled this year.

5. The Department of Revenue RCCW (Revenue Coordinating Committee of Women) and the Office of Personnel and Training conducted a series of eight sack lunch information sessions in November and December 1985. Each session consisted of:
   a. A presentation by a division administrator explaining the functions of the division and outlining the duties and knowledge, skills, and abilities of typical positions.
   b. A presentation by representative employees briefly explaining their career profile.
   c. Discussion of opportunities and requirements for various positions.

   The sessions were taped and are available for individual viewing.

In October and November 1985, the Department of Revenue Personnel Officer presented one-day workshops for Property Assessment Division personnel during their annual meetings. The workshops featured recruitment and selection, affirmative action, and performance appraisal training.

One Recruitment and Selection workshop was presented in January 1986. This included a segment on affirmative action efforts within the Department of Revenue.

CHAPTER V

EMPLOYMENT OF WOMEN, MINORITIES AND THE DISABLED

Fiscal year 1986 (July 1, 1985, to June 30, 1986) was a tumultuous period for public employees in Montana. State government experienced a significant shortfall in revenue. A special session was conducted to reduce state expenditures. Agencies were required to make a series of broad cuts in personal services and operating budgets.

It is difficult for agency management to concentrate on affirmative action gains when facing such a fiscal environment. Much of the effort of EEO officers was directed at preserving recent affirmative action gains.

The fiscal environment is one factor contributing to the lack of gains in the employment of women, minorities and the disabled during the period. The percentage of women in the state workforce remained relatively unchanged during the fiscal year. Slight gains were made in the professional and protective services categories. Minority employment dropped slightly and disabled employment dropped more significantly. These changes from the previous year are described in more detail in this chapter.

TABLE A

Summary of Representation of Permanent Employees
by Job Category (June 30, 1986)

Job Category	Total No.	Female %	Female No.	Minorities %	Minorities No.	Handicapped %	Handicapped No.
Administrators	498	17.1	85	2.4	12	3.2	16
Professionals	3,172	37.0	1,172	2.4	77	3.5	111
Technicians	1,892	53.3	1,009	3.6	68	2.7	51
Protective Serv.	573	7.5	43	2.4	14	1.8	10
Para Professionals	912	64.3	586	3.3	30	2.4	22
Clerical	1,530	89.8	1,376	2.7	41	1.8	27
Skilled Craft	473	1.7	8	3.8	18	3.4	16
Service & Mtce.	569	15.3	87	4.9	28	2.8	16
TOTAL	9,619	45.4	4,366	3.0	288	2.8	269

A. Minorities

The employment of minorities dropped from 3.2% of the workforce on June 30, 1985 to 3.0% of the workforce on June 30, 1986. Most of this reduction occurred in the clerical job category. Slight gains in the number of minorities employed occurred in administrative, professional, technical, and protective services categories.

TABLE B

Employment of Minorities by Job Categories
in 1985 and 1986

Job Categories	1985 Total No.	1985 %	1986 Total No.	1986 %
Administrators	10	2.1	12	2.4
Professional	69	2.3	77	2.4
Technicians	64	3.4	68	3.6
Protective Services	12	2.2	14	2.4
Para-Professionals	32	3.5	30	3.3
Office Clerical	54	3.4	41	2.7
Skilled Craft	18	3.9	18	3.8
Service Maintenance	30	5.0	28	4.9
TOTAL	300	3.2	288	3.0

Minorities represent approximately 4.8% of the total Montana Labor Force. Over 80% of these minorities are Native Americans, a majority of which are concentrated on or near the state's reservations. An examination of applicant information indicates that Native Americans do not apply for state positions at the same rate they are represented in the total labor force. It is unlikely that the state can approach a 4.8% employment rate without some more specific measures to attract and retain qualified Native American applicants.

The following activities are recommended:

1. Continue outreach efforts to contact and work with Native American employment agencies and advocacy groups.
2. Develop better demographic information on Native Americans and other minorities, identifying their residences and qualifications.
3. Increase recruitment activities geared to Native Americans, emphasizing state jobs located on or near a reservation.

B. Disabled

There were 296 state employees, 3.1% of the workforce, identified as disabled on June 30, 1985. This number had decreased to 269, 2.8% of the workforce, on June 30, 1986. This is a reduction of 27 disabled employees. Significant drops occurred in the professional, office clerical and service maintenance job categories. These losses are particularly disturbing following several years of growth in the employment of the disabled.

Identifying disabled employees and applicants can be difficult and sometimes may require a visual decision by a hiring authority. In addition to actions taken to improve the hiring and retention rates of disabled employees, the State Personnel and agencies are reviewing procedures for maintaining records of disabled employees to improve the accuracy and reliability of this data.

Activities to promote the employment of the disabled were limited during the budget crisis and the special legislative session. The Governor's Committee for the Employment of the Disabled has been working since the Session to set objectives and identify priorities for the coming year.

TABLE C

Representation of Disabled State Employees
By Job Category for 1985 and 1986

Job Categories	1985 Total No.	1985 %	1986 Total No.	1986 %
Administrators	15	3.1	16	3.2
Professional	125	4.2	111	3.5
Technicians	50	2.7	51	2.7
Protective Services	13	2.4	10	1.8
Para-Professionals	19	1.8	22	2.4
Office Clerical	35	2.2	27	1.8
Skilled Craft	18	3.9	16	3.4
Service Maintenance	21	3.5	16	2.8
TOTAL	296	3.1	269	2.8

The Committee began a vigorous program to identify employers making an ongoing contribution to handicapped employment. These employers will receive recognition from the Committee through local news media.

The activities of the Governor's Committee should help to improve the opportunities for the disabled in state agencies. It is also important that state government make additional efforts to regain the positive momentum enjoyed in recent years. Efforts have been made to emphasize reasonable accommodation requirements by reaffirming such requirements in the new state disability leave rules. The adoption of reasonable accommodation requirements in a state rule should help to remind hiring authorities that they must provide reasonable accommodation.

C. Women

The representation of women in state jobs indicates mixed success during FY86. The number of women in professional positions continued its steady increase with a gain of 89 professional women. 37% of state employees in the professional category were women on June 30, 1986, up from 36.1% on June 30, 1985.

Another positive gain was made in the Protective Services category. Special recruitment and affirmative action efforts have helped move women into this traditionally male job category. Employment increased from 37 women (6.8%) on June 30, 1985 to 43 women (7.5%) on June 30, 1986.

There were no gains in the administrative or skilled crafts categories. FY86 is the second consecutive year with no employment gains for women in these two predominantly male job categories. This pattern suggests that, even though women continue to be significantly underrepresented in these categories, traditional affirmative action methods are not working. The state must explore new programs to reestablish the progress experienced in the early 1980's.

TABLE D

Representation of Women in State Job Categories
in 1985 and 1986

Job Categories	1985 Total No.	1985 %	1986 Total No.	1986 %
Administrators	84	17.3	85	17.1
Professional	1,083	36.1	1,172	37.0
Technicians	985	52.1	1,009	53.3
Protective Services	37	6.8	43	7.5
Para-Professionals	587	64.8	586	64.3
Office Clerical	1,423	89.8	1,376	89.8
Skilled Craft	9	1.9	8	1.7
Service Maintenance	97	16.3	87	15.3
TOTAL	4,205	45.5	4,366	45.4

Table E compares the representation of women in state jobs to their availability in the statewide labor force. The state continues to trail the total labor force in the utilization of women in nontraditional job categories. Part of this difference may be due to the occupational make up of the state's work force. This is most pronounced in the professional category. For example, the Montana labor force includes a significant number of teachers, an occupation where more women have traditionally been employed. The state employs only a small number of teachers. The total labor force figure of 49.1% may be an unrealistic availability figure for state professional jobs. Analysis of those occupations in the state's work force indicates that an availability closer to 40% is more appropriate.

TABLE E

Representation of Women in the Montana Labor Force
Compared to Montana State Government

Job Category	% Female in Labor Force	% Female in State Government
Managers and Administrators	30.6	17.1
Professionals	49.1	37.0
Clerical	81.8	89.8
Protective Services	11.3	7.5
Technicians	49.3	53.3
Crafts	5.2	1.7
Others	34.6	45.4
TOTAL	42.6	45.4

A more detailed analysis of the state's hiring patterns may shed light on the problem and suggest some ways of improving our affirmative action progress. Table F shows the hiring and promotion rates for women by job category.

In all of the traditionally male job categories, women are promoted at a significantly higher rate than they are newly hired. For example, in the administrative category, a respectable 28.8% of promotions are women while only 7.4% of the new hires are women. This pattern is similar although less pronounced in the professional, protective services, skilled crafts, and service maintenance job categories.

Once women have entered an agency's workforce they are able to compete effectively for available promotions. Initial entry, however, is the barrier that is keeping the representation of women from improving. This is particularly true in the administrative job category. Women who have had the opportunity to demonstrate their capabilities to

management are more likely to be evaluated based on their individual talents. Women applying from the outside have not had an opportunity to increase their visibility and are evaluated solely on their "paper qualifications." This places undue emphasis on years of experience and places women at a disadvantage against men who have had more ready access to jobs and job experience in the past.

In order to reverse this trend, the state must take steps to improve the "visibility" of qualified female applicants. This could be accomplished by better preparing women to apply for and compete for administrative positions.

TABLE F

New Hire, Promotion and Termination Rates for Women
Compared to Their Labor Force Availability and Current Representation
(All Agencies, Permanent Jobs Only) (1985-86)

Job Category	Labor Force	Current Representation	Total Hired	Female Hired	% Rate	Total Promoted	Female Promoted	% Rate	Total Termin.	Female Termin.	% Rate
Administrators	30.6	17.1	27	2	7.4	51	15	28.8	52	9	17.3
Professionals	49.1	37.0	508	212	41.7	130	75	58.8	400	177	44.3
Technicians	49.3	53.3	142	77	54.2	192	131	68.2	185	106	57.3
Protective Serv.	11.3	7.5	97	7	7.2	26	4	15.4	48	3	6.3
Para-Professional		64.3	124	67	54.0	75	50	66.7	146	91	62.0
Clerical	81.8	89.8	339	302	89.1	44	36	82.0	253	227	89.7
Skilled Craft	5.2	1.7	15	0	0	31	1	3.0	28	1	3.6
Services		15.3	33	3	9.1	37	8	22.0	43	11	25.6
TOTAL	42.6*	45.4	1,285	670	52.1	586	320	55.0	1,155	625	54.1

* Labor Force percentage total taken from Table B.

CHAPTER VI
RECOMMENDATIONS

Executive Development Program:

One approach which may help overcome employment barriers to women as noted in Chapter V, is to allow women to gain qualifications through a means other than traditional job experience. Executive development programs for women are a way of addressing these concerns. These programs are currently being established by a number of employers around the country.

An executive development program selects a number of women as potential managers and allows them to participate in an intensive management training experience. This experience is then recognized as a valid source of job skills when management jobs are filled. No candidate is guaranteed a job because they have participated. They must apply and compete for positions like any other candidate.

An extensive executive development program is beyond the scope of the limited resources the state has available for recruitment, selection and training programs. A workable program could be established by taking advantage of existing resources.

Current classes developed for existing managers could be modified and expanded for the potential manager. These pre-management courses could be available for the executive development program and for all new managers and for any potential managers who wish to attend the training on their own.

On-the-job training opportunities could also be provided as part of an executive development program.

Any agency with an affirmative action plan that identifies underutilization of women in the administrative category would be encouraged to participate in the executive development program. Participation would be identified as a good faith effort at reducing the effects of past discrimination. Individual agencies could nominate candidates by assessing their past performance and contribution to the agency.

An executive development program would prepare a pool of female candidates able to compete more successfully for administrative job openings. The affirmative action preference under the agencies' affirmative action plans would then be adequate to cause a greater portion of the available positions to be filled by women.

Sexual Harassment Prevention

A number of state agencies are experiencing an increase in complaints of sexual harassment being brought to the attention of management. State Personnel Division's technical assistants' logs indicate an increase in inquiries pertaining to sexual harassment.

It has been over four years since the Governor's Executive Order No. 7-82 was issued which prohibits sexual harassment in state executive branch agencies. State government needs to confirm in employees "a faith in management" that sexual harassment will not be tolerated in the workplace.

Sexual Harassment Prevention Awareness Program

Creating a sexual harassment free working atmosphere in all state government agencies could:

- help improve productivity by accepting members of the opposite sex as equals.
- raise employees' morale.
- avoid litigation.
- meet federal and state EEO laws and regulations.

On the other hand, failing to create a sexual harassment free working environment could have results opposite to the positive aspects mentioned above.

The State Personnel Division in cooperation with state agencies, plans to actively disseminate the laws, policies, and complaint procedures pertaining to prevention of sexual harassment in the workplace. The

Division will promote training workshops for state employees at all levels and will stress the advantages of sexual harassment free working environment as well as the costs of sexual harassment litigation.

Applicant Records:

State agencies must continue to supply current position/applicant data into the new applicant flow system. Only by evaluating past and present recruitment and selection practices can agencies begin to identify the causes of underutilization.

Management Briefings:

All executive branch agencies have quality affirmative action plans in place. These plans, however, cannot be effective without a commitment from knowledgeable management officials within each agency. All agency managers should attend affirmative action briefings. The briefings would be conducted by the EEO Section Staff with Personnel and EEO Officers from the agency. Briefings would explain the EEO/AA Guidelines, the applicant flow system and specifically address the agency's own affirmative action plan. Emphasis would be placed on the specific action items set by the agency and the problems these items are designed to correct.

APPENDIX A

GLOSSARY OF TERMS

Action Item - A statement in an affirmative action plan specifying precisely what action will be taken to solve an identified problem or meet an identified need, the individual responsible and the time in which the action will be taken.

Affected Class - A group of people with a common characteristic such as race or sex who currently suffer employment discrimination or suffer the continuing effects of past discrimination. The term generally refers to women and minority group members, as well as to the disabled.

Affirmative Action Plan - A result-oriented management plan with specific goals, timetables and assigned responsibilities for correcting deficiencies in the employment of minorities and women and for assuring that potential handicapped applicants are informed of job opportunities and are adequately considered.

Agency - For purposes of these guidelines the term agency(ies) refers to executive branch of state government. These include: the office of the Governor; Office of the Secretary of State; State Auditor's Office; Superintendent of Public Instruction's Office; Department of Justice; Department of Public Service Regulation; Montana State Library; Montana Historical Society; Department of Fish, Wildlife and Parks; Department of Health and Environmental Sciences; Department of Highways; Department of State Lands; Department of Livestock; Department of Natural Resources and Conservation; the Department of Revenue; Department of Administration; Department of Agriculture; Department of Institutions; Department of Commerce; Department of Labor and Industry; Department of Military Affairs; and Department of Social and Rehabilitation Service.

Applicant Flow Analysis - An analysis of whether or not minority and female applicants are applying for jobs in representative numbers, whether those who apply are selected in representative numbers, and if not, what part of the selection process is responsible.

Availability - The minority/female/handicapped percentage of all persons with the required education, training, and experience needed by an agency for a particular job or job group who are in a specified area of recruitment.

Availability Analysis - An estimation of the percentage of minorities or females in the relevant recruitment areas who have the skills necessary for entry into a specific classification or occupational group in order to determine the number of persons by race and sex available for employment in a classification or occupational group. The availability analysis forms the standard of measurement for determining whether or not minorities and women are underutilized in the workforce and the extent or significance of any underutilization. The availability analysis is not conducted for the disabled because there is no availability data and federal law requires individual rather than statistical analysis.

Disabled Person - For purposes of these guidelines, a disability is a physical or mental condition which limits a major activity such as walking, caring for oneself, seeing, hearing, speaking, learning or breathing which limits ability to find and hold employment.

EEO-4 Category - One of eight (8) occupational categories reported on the Federally-required annual EEO-4 report. These eight categories are: officials and administrators; professionals; technicians; protective service workers; paraprofessionals; office and clerical; skilled craft workers; service-maintenance. Each category is reported by race, sex, and salary range.

Minority - A segment of the population which differs from others in racial or national origin characteristics and which suffers from discrimination. This generally and in these guidelines includes: blacks, Hispanics, Asians/Pacific Islanders and American Indians/Alaskan Natives.

Reasonable Accommodation - An employer obligation to modify facilities to insure accessibility of handicapped persons or provide special equipment, modify existing equipment, or restructure a job to permit an otherwise qualified handicapped applicant or employee to hold employment, except where the accommodation needed would be too costly or substantially reduce the safe and efficient operation of the agency.

Underutilization - Employment situations in which there are significantly fewer persons of a particular group (i.e., women or minorities) serving at a particular level or holding a particular kind of position than might be expected when compared to their availability.

Utilization Analysis - An analysis comparing an agency's minority and female workforce percentages (utilization) to the minority and female labor force percentages in the relevant recruitment area (availability). If utilization is less than availability, underutilization is identified (see Underutilization).

STATE OF MONTANA
Office of the Governor
EXECUTIVE ORDER NO. 24-81

Executive Order Directing the Department of Administration to Implement and Maintain an Equal Employment Opportunity Program in State Government

WHEREAS, equal opportunity in state government is a goal to which I am committed, and

WHEREAS, discriminating barriers to employment in state government must be eliminated, and

WHEREAS, an effective state equal employment opportunity program must be implemented and maintained.

NOW, WHEREOF, I, GEORGE TURMAN, by the authority vested in me as Governor of the State of Montana, pursuant to Article VI, Section 4, of the Constitution of the State of Montana and Sections 2-7-103, 2-15-103, and 2-15-201, Montana Codes Annotated, do hereby order the Department of Administration as follows:

1. Implement and maintain an Equal Employment Opportunity Program for all state government employees. Specifically the Department shall provide such regulations, standards, and other guidelines as may be necessary to implement and maintain an effective equal employment opportunity program throughout state government. The program objectives shall be to eliminate discrimination in personnel salaries and procedures, job structuring and classification, hiring, firing, promoting and training.
2. Monitor the Equal Employment Opportunity Program and submit a status report to me within 90 days of the end of each year.

This order is effective immediately.

GIVEN under my hand and the GREAT SEAL of the State of Montana this 13TH day of October in the year of our Lord One Thousand Nine Hundred Eight-One.

George Turman

GEORGE TURMAN, Acting Governor

ATTEST:

Jim Waltermire

JIM WALTERMIRE, Secretary of State